

2005 DRAFTING REQUEST

Bill

Received: **02/15/2005**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Terese Berceau (608) 266-3784**

By/Representing: **Traci**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Berceau@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**
cathlene.hanaman@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Harassment of service dogs

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 02/22/2005	wjackson 03/10/2005		_____			S&L Crime
/1			pgreensl 03/15/2005	_____	lemery 03/15/2005	lnorthro 03/15/2005	

FE Sent For:

<END>

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FE Sent For:

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Dsida, Michael

From: Malaise, Gordon
Sent: Tuesday, December 14, 2004 2:32 PM
To: Peloquin2, Traci
Cc: Dsida, Michael
Subject: RE: bill draft inquiry



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Traci:

Because you are creating a criminal law prohibiting harassment of a service dog, the draft belongs to our criminal law drafter, Mike Dsida.

Gordon

-----Original Message-----

From: Peloquin2, Traci
Sent: Tuesday, December 14, 2004 2:20 PM
To: Malaise, Gordon
Subject: RE: bill draft inquiry

Gordon,

No, not a redraft. I think Miller will be reintroducing his bill next session.

Currently, WI law (Statute 951.095) prohibits harassment of police and fire animals. Representative Berceau would like to provide similar protection for service dogs. Several other states have passed such legislation. Apparently, the law in Washington State is considered the best, and has been used as the model for laws in other states. I've included the text below.

RCW 9.91.170

Interfering with dog guide or service animal.

(1)(a) Any person who has received notice that his or her behavior is interfering with the use of a dog guide or service animal who continues with reckless disregard to interfere with the use of a dog guide or service animal by obstructing, intimidating, or otherwise jeopardizing the safety of the dog guide or service animal user or his or her dog guide or service animal is guilty of a misdemeanor, except as provided in (b) of this subsection.

(b) A second or subsequent violation of this subsection is a gross misdemeanor.

(2)(a) Any person who, with reckless disregard, allows his or her dog to interfere with the use of a dog guide or service animal by obstructing, intimidating, or otherwise jeopardizing the safety of the dog guide or service animal user or his or her dog guide or service animal is guilty of a misdemeanor, except as provided in (b) of this subsection.

(b) A second or subsequent violation of this subsection is a gross misdemeanor.

(3) Any person who, with reckless disregard, injures, disables, or causes the death of a dog guide or service animal is guilty of a gross misdemeanor.

(4) Any person who, with reckless disregard, allows his or her dog to injure, disable, or cause the death of a dog guide or service animal is guilty of a gross misdemeanor.

(5) Any person who intentionally injures, disables, or causes the death of a dog guide or service animal is guilty of a class C felony punishable according to chapter 9A.20
<<http://www.leg.wa.gov/RCW/index.cfm?fuseaction=chapterdigest&chapter=9A.20>> RCW.

(6) Any person who wrongfully obtains or exerts unauthorized control over a dog guide or service animal with the intent to deprive the dog guide or service animal user of his or her dog guide or service animal is guilty of theft in the first degree, RCW 9A.56.030
<<http://www.leg.wa.gov/RCW/index.cfm?section=9A.56.030&fuseaction=section>>.

(7)(a) In any case in which the defendant is convicted of a violation of this section, he or she shall also be ordered to make full restitution for all damages, including incidental and consequential expenses incurred by the dog guide or service animal user and the dog guide or service animal which arise out of or are related to the criminal offense.

(b) Restitution for a conviction under this section shall include, but is not limited to:

(i) The value of the replacement of an incapacitated or deceased dog guide or service animal, the training of a replacement dog guide or service animal, or retraining of the affected dog guide or service animal and all related veterinary and care expenses; and

(ii) Medical expenses of the dog guide or service animal user, training of the dog guide or service animal user, and compensation for wages or earned income lost by the dog guide or service animal user.

(8) Nothing in this section shall affect any civil remedies available for violation of this section.

(9) For purposes of this section, the following definitions apply:

(a) "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog trained for the purpose of assisting hearing impaired persons.

(b) "Service animal" means an animal that is trained for the purposes of assisting or accommodating a disabled person's sensory, mental, or physical disability.

(c) "Notice" means a verbal or otherwise communicated warning prescribing the behavior of another person and a request that the person stop their behavior.

(d) "Value" means the value to the dog guide or service animal user and does not refer to cost or fair market value.

[2003 c 53 § 52; 2001 c 112 § 2.]

NOTES:

Intent -- Effective date -- 2003 c 53: See notes following RCW 2.48.180
<<http://www.leg.wa.gov/RCW/index.cfm?section=2.48.180&fuseaction=section>>.

Short title -- 2001 c 112: "This act may be known and cited as Layla's Law." [2001 c 112 § 1.]

Although the Washington language refers to "service animals", Representative Berceau would like to limit her bill to service dogs at this time. The training programs for dogs are more standardized and we would like to avoid possible problems with people claiming that all kinds of animals (monkeys, miniature horses, pot bellied pigs, etc.) are service animals or therapy animals. It would also cover dogs that assist deaf people and those with physical disabilities, as well as guide dogs for the blind.

Please let me know if you have any questions. I do have hard copy background material on laws in other states that I can share with you if you like.

Thank you.

Traci Peloquin, Legislative Assistant
Office of State Representative Terese Berceau

-----Original Message-----

From: Malaise, Gordon

Sent: Monday, December 13, 2004 5:19 PM

To: Peloquin2, Traci

Subject: RE: bill draft inquiry

Traci:

Yes, I would be the drafter, under the category of "discrimination," of a bill relating to service animals for persons with disabilities.

Is your drafting request, by any chance, a request to redraft 2003 AB 332, which I drafted by Rep. Miller last session and which was cosponsored by Rep. Berceau?

Gordon

-----Original Message-----

From: Peloquin2, Traci

Sent: Monday, December 13, 2004 4:14 PM

To: Malaise, Gordon

Subject: bill draft inquiry

Hello,

Representative Berceau wants to have a bill drafted regarding service animals for the disabled. I didn't see a "disabled" category on the list of subject areas, and your "discrimination" was the closest area listed. Is this something you would handle, or is there another drafting attorney I should contact?

Thank you.

Traci Peloquin, Legislative Assistant
Office of State Representative Terese Berceau

Dsida, Michael

From: Peloquin2, Traci
Sent: Tuesday, February 15, 2005 2:23 PM
To: Dsida, Michael
Subject: bill drafting update



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Hi Mike,

Representative Berceau was wondering about the status of a bill you were drafting for her re: interference with a service dog. I originally communicated with Gordon Malaise about the bill in December, but he said it was your issue area and that he would forward the drafting request to you.

The constituent who brought the need for this law to my attention recently sent me information about new legislation being introduced in Missouri.

HB 116 - Deeken (R) <<http://www.house.mo.gov/bills051/bills/hb116.htm>>

Establishes the rights of persons who utilize service dogs

"Service dog" is defined as a dog specially trained to do work or perform tasks which benefit a person with a disability. Any person who causes the physical injury or death or fails to control their animal which causes the physical injury or death of a service dog is guilty of a class A misdemeanor. Any person who harasses a service dog or fails to control his or her animal which harasses a service dog preventing the dog from performing its duties is guilty of a class B misdemeanor. Civil damages may be recovered by the service dog owner or the person with a disability who uses the service dog. Anyone who impersonates a person with a disability by representing himself or herself as disabled or represents his or her dog as a service dog is guilty of a class B misdemeanor and liable for any actual damages resulting from the impersonation.

Could you let me know where you are regarding the bill draft?

Thanks!

Traci Peloquin
Office of State Representative Terese Berceau

Dsida, Michael

From: Peloquin2, Traci
Sent: Friday, February 18, 2005 11:18 AM
To: Dsida, Michael
Subject: RE: Penalties for crimes related to service dogs



Also, do you have a preference between the definition of "service animal" (which I would modify so that it only applies to dogs) in Washington law and "service dog" under Missouri law? I'm not sure there's much difference between them.

I like Washington's better. Maybe "Service dog" means a dog that is trained for the purposes of assisting or accommodating a person with a sensory, mental, or physical disability. That would seem to cover guide dogs who assist blind and deaf people as well.

I can certainly change "knowing" to "knowing or having reason to know" for the penalty provisions for service dogs. Should that apply to police and fire dogs too? And just to make sure that we're on the same page -- making this change would increase the number of cases in which a person would be subject to the higher penalties, since a person might have reason to know of the dog's status without actually knowing it.

Right now, let's not include police and fire dogs.

Section 951.18 (4) (a) 2. contains restitution provisions that apply to harassing or injuring a police or fire dog. I can draft the bill so that provision covers harassing or injuring a service dog, but that raises a question or two. Who typically owns the service dog? If the person being assisted is the owner, should s/he be able to receive restitution if the dog was donated? Alternatively, the organization that trained it could receive the restitution. (If the organization still owns the dog, the issue should be relatively straightforward.)

Thanks for the citation. I didn't read down that far, I guess. The people being assisted legally own the dogs. However, I they don't customarily pay for the full cost of training a service dog. The training organizations are non-profits and get donations, both of money and of puppies for training. If a person with a service dog that is injured or killed were to receive the restitution, he or she could then afford to pay for the actual cost of training a replacement animal. So I'm comfortable with the person receiving the restitution under the criminal penalties section.

Is the current definition of pecuniary loss broad enough to include vet bills and cost of training a replacement? Or should the language be more specific, like Washington's?

(b) Restitution for a conviction under this section shall include, but is not limited to:

(i) The value of the replacement of an incapacitated or deceased dog guide or service animal, the training of a replacement dog guide or service animal, or retraining of the affected dog guide or service animal and all related veterinary and care expenses; and

(ii) Medical expenses of the dog guide or service animal user, training of the dog guide or service animal user, and compensation for wages or earned income lost by the dog guide or service animal user.

Dsida, Michael

From: Dsida, Michael
Sent: Friday, February 18, 2005 10:08 AM
To: Peloquin2, Traci
Subject: RE: Penalties for crimes related to service dogs

See below. Also, do you have a preference between the definition of "service animal" (which I would modify so that it only applies to dogs) in Washington law and "service dog" under Missouri law? I'm not sure there's much difference between them.

-----Original Message-----

From: Peloquin2, Traci
Sent: Thursday, February 17, 2005 1:05 PM
To: Dsida, Michael
Subject: RE: Penalties for crimes related to service dogs

Hi Mike,

Terese would like the penalties (fines and imprisonment) to be similar to those in current law covering police and fire dogs.

I'm concerned about our provision for police and fire dogs that makes penalties lower if someone is unaware that the dog is a working dog. Guide dogs are usually larger (labs or shepherds) and often wear capes or harnesses that reasonably identify them as working dogs. However, other types of service dogs that assist disabled people can be smaller breeds, and often do not wear capes or harnesses. Do you think using something like the phrase "knows or has been notified" that the dog is a working dog would address this concern? Or "reasonably should have known"?

I can certainly change "knowing" to "knowing or having reason to know" for the penalty provisions for service dogs. Should that apply to police and fire dogs too? And just to make sure that we're on the same page -- making this change would increase the number of cases in which a person would be subject to the higher penalties, since a person might have reason to know of the dog's status without actually knowing it.

In my quick glance at our statutes, I didn't see a provision in the law covering police and fire dogs that would require restitution upon a conviction. Terese would like such a provision in this bill, similar to the language from Washington. It costs tens of thousands of dollars to train these dogs, over and above the actual cost of the dog itself.

Section 951.18 (4) (a) 2. contains restitution provisions that apply to harassing or injuring a police or fire dog. I can draft the bill so that provision covers harassing or injuring a service dog, but that raises a question or two. Who typically owns the service dog? If the person being assisted is the owner, should s/he be able to receive restitution if the dog was donated? Alternatively, the organization that trained it could receive the restitution. (If the organization still owns the dog, the issue should be relatively straightforward.)

Thanks!

Traci

-----Original Message-----

From: Dsida, Michael
Sent: Wednesday, February 16, 2005 5:01 PM
To: Peloquin2, Traci
Subject: Penalties for crimes related to service dogs

Do you have any thoughts about what penalties you want to use in the bill?

Under the Missouri law, a person who causes injury or death to a service dog may be imprisoned for up to 1 year. Other crimes related to service dogs are punishable by 6 months imprisonment. Under Washington law, the causing injury or death is punishable by up to 5 years imprisonment. Other crimes are punishable by 90 days imprisonment for a first offense and one year imprisonment for a second or subsequent offense.

The Wisconsin law regarding police and fire dogs provides the following penalties:

If the person is unaware that the dog is a police or fire dog ... a forfeiture of up to \$1000

If the person knows that the dog is a police or fire dog ... up to 9 months imprisonment, unless:
The dog is injured ... up to 3.5 years imprisonment
The dog dies...up to 6 years imprisonment

All of the statutes that provide for imprisonment also provide for a fine, but for simplicity's sake, I did not include those amounts. If you want to know what they are, please let me know.

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@legis.state.wi.us



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2132/2

MGD:.....

D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Soon

Gen

- 1 AN ACT ...; relating to: harassment of, causing injury to, or theft of a service dog
- 2 and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, no person may do any of the following to an animal that is used by a law enforcement agency or fire department to perform its functions or duties: 1) frighten, intimidate, threaten, abuse, or harass the animal; or 2) strike (with or without a weapon), shove, kick, or otherwise subject the animal to physical contact. (These prohibitions do not apply to acts done by or with the authorization of the animal's handler or rider or to acts done in the course of training the animal.) The penalties for violating these prohibitions depend on the extent of the harm inflicted on the animal and the mental state of the actor. Generally, the person is subject to a forfeiture (a civil penalty) of up to \$1,000. But if the person knows that the animal is used by a law enforcement agency or fire department to perform its functions or duties, the person is guilty of: 1) a Class A misdemeanor, if the violation is intentional or negligent; 2) a Class I felony, if the violation is intentional and the person causes injury to the assistance dog; or 3) a Class H felony, if the violation is intentional and the person causes the death of the assistance dog. (See the table at below for the penalties that apply to these classes of crimes.) If a person is convicted of one of these crimes, the court must require the person to pay restitution to any person or entity incurring pecuniary loss as a result of the crime. Under current law, "pecuniary loss" includes: 1) the money equivalent of any loss or damage resulting from the offense; 2) reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and

animal

an offender

prosecution of the crime; and 3) expenses in keeping any animal that is involved in the crime.

INS A
This bill creates new crimes involving (service dogs). Under the bill, a person who does any of the following, knowing that the dog involved is a service dog, is guilty of a Class A misdemeanor: 1) recklessly interfere with the use of a service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user after receiving a request to stop behavior that is interfering with the dog; 2) recklessly allow his or her dog to interfere with the use of a service dog by obstructing or intimidating it or otherwise jeopardizing its safety or the safety of its user; (3) or recklessly injure a service dog or recklessly allow his or her dog to injure a service dog. In addition, a person who intentionally injures a service dog or intentionally allow his or her dog to injure a service dog, knowing that that dog is a service dog, is guilty of a Class I felony. Moreover, a person who intentionally causes the death of a service dog or steals a service dog is guilty of a Class H felony.

The bill also makes the provisions in current law relating to restitution in cases involving law enforcement agency or fire department animals applicable to service dogs. In addition, the bill specifies that "pecuniary loss" includes the following for cases involving either law enforcement agency or fire department animals or service dogs: 1) the value of a replacement animal, if needed, the cost of training a replacement animal, or the cost of retraining the affected animal and all related veterinary and care expenses; 2) the medical expenses of the animal's user, the cost of training the animal's user, and compensation for income lost by the animal's user.

The following table lists the penalties that apply to crimes discussed in this analysis:

Crime	Maximum fine	Maximum term of confinement	Maximum sentence length
✓ Class A misdemeanor	\$10,000 ✓	9 months ✓	9 months
✓ Class I felony	\$10,000 ✓	1.5 years	3.5 years
✓ Class H felony	\$10,000 ✓	3 years	6 years

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 951.01 (5) "Service dog" means a dog that is trained for the purpose of assisting
2 a person with a sensory, mental, or physical disability or accommodating such a
3 disability.

4 SECTION 2. 951.097[✓] of the statutes is created to read:

5 ⑤ 951.097 **Harassment of service dogs.** [✓] (No 11)

6 (1) (a) Any person may provide notice to another person in any manner that
7 the latter[✓] person's behavior is interfering with the use of a service dog and may
8 request that the latter[✓] person stop engaging in that behavior.

9 (b) No person, after receiving a notice and request under par. (a)[✓] regarding a
10 service dog, may recklessly interfere with the use of the service dog by obstructing
11 or intimidating it or otherwise jeopardizing its safety or the safety of its user.

12 (2) No person may recklessly allow his or her dog to interfere with the use of
13 a service dog by obstructing or intimidating it or otherwise jeopardizing its safety or
14 the safety of its user.

15 (3) No person may recklessly injure a service dog or recklessly allow his or her
16 dog to injure a service dog.

17 (4) No person may intentionally injure a service dog or intentionally allow his
18 or her dog to injure a service dog.

19 (5) No person may intentionally cause the death of a service dog.

20 (6) No person may take possession of or exert control over a service dog without
21 the consent of its owner or user and with the intent to deprive another of the use of
22 the service dog.

23 SECTION 3. 951.18[✓] (2s) of the statutes is created to read:

24 951.18 (2s) Any person who violates s. 951.097 (1) (b)[✓], (2)[✓], or (3)[✓], knowing that
25 the dog that is the victim is a service dog, is guilty of a Class A misdemeanor. Any

1 person who violates s. 951.097 (4), knowing that the dog that is the victim is a service
2 dog, is guilty of a Class I felony. Any person who violates s. 951.097 (5) or (6), knowing
3 that the dog that is the victim is a service dog, is guilty of a Class H felony.

4 **SECTION 4.** 951.18 (4) (a) 1. of the statutes is renumbered 951.18 (4) (a) 1.
5 (intro.) and amended to read:

6 951.18 (4) (a) 1. In this paragraph, "pecuniary loss" ^(intro.) has the meaning described
7 ~~in s. 943.245 (1).~~ means any of the following:

History: 1973 c. 314; 1977 c. 173; 1981 c. 160; 1983 a. 95; 1985 a. 48 s. 2; 1985 a. 263; 1987 a. 248; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.18; 1987 a. 403 s. 256; 1989 a. 56 s. 259; 1989 a. 223; 1993 a. 192; 1997 a. 27, 192; 2001 a. 56, 109.

8 **SECTION 5.** 951.18 (4) (a) 1. a. of the statutes is created to read:

9 951.18 (4) (a) 1. a. All special damages, but not general damages, including the
10 money equivalent of loss resulting from property taken, destroyed, broken, or
11 otherwise harmed and out-of-pocket losses, such as medical expenses.

12 **SECTION 6.** 951.18 (4) (a) 1. b. of the statutes is created to read:

13 951.18 (4) (a) 1. b Reasonable out-of-pocket expenses incurred by the victim
14 resulting from the filing of charges or cooperating in the investigation and
15 prosecution of an offense under this chapter.

16 **SECTION 7.** 951.18 (4) (a) 1. c. of the statutes is created to read:

17 951.18 (4) (a) 1. c. Expenses in keeping any animal that is involved in the crime.

18 **SECTION 8.** 951.18 (4) (a) 1. d. of the statutes is created to read:

19 951.18 (4) (a) 1. d. In a case under s. 951.095 or 951.097, the value of a
20 replacement animal, if the affected animal is incapacitated or dead, the cost of
21 training a replacement animal, or the cost of retraining the affected animal and all
22 related veterinary and care expenses. The court shall base any determination of the
23 value of a replacement service dog on the value of the service dog to the user and not
24 on its cost or fair market value.

INS
4/24

1 **SECTION 9.** 951.18 (4) (a) 1. ^{to} of the statutes is created to read:

2 951.18 (4) (a) 1. ^{to} ~~e.~~ In a case under s. 951.095 or 951.097, [✓] the medical expenses
3 of the animal's user, the cost of training the animal's user, and compensation for
4 income lost by the animal's user.

5 **SECTION 10.** 951.18 (4) (a) 2. of the statutes is amended to read:

6 951.18 (4) (a) 2. A sentencing court shall require a criminal violator to pay
7 restitution to a person, including any local humane officer or society or county or
8 municipal pound or a law enforcement officer or conservation warden, for any
9 pecuniary loss suffered by the person as a result of the crime, ~~including expenses in~~
10 ~~keeping any animal that is involved in the crime.~~ This requirement applies
11 regardless of whether the criminal violator is placed on probation under s. 973.09.
12 If restitution is ordered, the court shall consider the financial resources and future
13 ability of the criminal violator to pay and shall determine the method of payment.
14 Upon the application of any interested party, the court shall schedule and hold an
15 evidentiary hearing to determine the value of any pecuniary loss under this
16 paragraph.

17 **History:** 1973 c. 314; 1977 c. 173; 1981 c. 160; 1983 a. 95; 1985 a. 48 s. 2; 1985 a. 263; 1987 a. 248; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.18; 1987 a. 403 s. 256; 1989
a. 56 s. 259; 1989 a. 223; 1993 a. 192; 1997 a. 27, 192; 2001 a. 56, 109.

(END)

INS 4/24

1 person who violates s. 951.097 (4), knowing that the dog that is the victim is a service
2 dog, is guilty of a Class I felony. Any person who violates s. 951.097 (5) or (6), knowing
3 that the dog that is the victim is a service dog, is guilty of a Class H felony.

4 **SECTION 4.** 951.18 (4) (a) 1. of the statutes is renumbered 951.18 (4) (a) 1.
5 (intro.) and amended to read:

6 951.18 (4) (a) 1. In this paragraph, "pecuniary loss" has the meaning described
7 in s. 943.245 (1). means any of the following:

History: 1973 c. 314; 1977 c. 173; 1981 c. 160; 1983 a. 95; 1985 a. 48 s. 2; 1985 a. 263; 1987 a. 248; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.18; 1987 a. 403 s. 256; 1989 a. 56 s. 259; 1989 a. 223; 1993 a. 192; 1997 a. 27, 192; 2001 a. 56, 109.

8 **SECTION 5.** 951.18 (4) (a) 1. a. of the statutes is created to read:

9 951.18 (4) (a) 1. a. All special damages, but not general damages, including the
10 money equivalent of loss resulting from property taken, destroyed, broken, or
11 otherwise harmed and out-of-pocket losses, such as medical expenses.

12 **SECTION 6.** 951.18 (4) (a) 1. b. of the statutes is created to read:

13 951.18 (4) (a) 1. b Reasonable out-of-pocket expenses incurred by the victim
14 resulting from the filing of charges or cooperating in the investigation and
15 prosecution of an offense under this chapter.

16 **SECTION 7.** 951.18 (4) (a) 1. c. of the statutes is created to read:

17 ~~951.18 (4) (a) 1. c. Expenses in keeping any animal that is involved in the crime.~~

18 → **SECTION 8.** 951.18 (4) (a) 1. ~~d~~^e of the statutes is created to read:

19 951.18 (4) (a) 1. ~~d~~^e In a case under s. 951.095 or 951.097, the value of a
20 replacement animal, if the affected animal is incapacitated or dead, the cost of
21 training a replacement animal, or the cost of retraining the affected animal and all
22 related veterinary and care expenses. The court shall base any determination of the
23 value of a replacement service dog on the value of the service dog to the user and not
24 on its cost or fair market value.

INS A

1 951.01(5) "Service dog" means a dog that is trained for the purpose of assisting
2 a person with a sensory, mental, or physical disability or accommodating such a
3 disability. ^{ies}

4 SECTION 2. 951.097 of the statutes is created to read:

5 951.097 **Harassment of service dogs.**

6 (1) (a) Any person may provide notice to another person in any manner that
7 the latter person's behavior is interfering with the use of a service dog and may
8 request that the latter person stop engaging in that behavior.

9 (b) No person, after receiving a notice and request under par. (a) regarding a
10 service dog, may recklessly interfere with the use of the service dog by obstructing
11 or intimidating it or otherwise jeopardizing its safety or the safety of its user.

12 (2) No person may recklessly allow his or her dog to interfere with the use of
13 a service dog by obstructing or intimidating it or otherwise jeopardizing its safety or
14 the safety of its user.

15 (3) No person may recklessly injure a service dog or recklessly allow his or her
16 dog to injure a service dog.

17 (4) No person may intentionally injure a service dog or intentionally allow his
18 or her dog to injure a service dog.

19 (5) No person may intentionally cause the death of a service dog.

20 (6) No person may take possession of or exert control over a service dog without
21 the consent of its owner or user and with the intent to deprive another of the use of
22 the service dog.

23 SECTION 3. 951.18 (2s) of the statutes is created to read:

24 951.18 (2s) Any person who violates s. 951.097 (1) (b), (2), or (3), knowing that
25 the dog that is the victim is a service dog, is guilty of a Class A misdemeanor. Any

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2132/2dn

MGD:.....

Nlj

Traci:

1. As is the case with the Washington provisions on which they are based (RCW 9.91.170 (1) (a) and (2) (a)), a person can violate s. 951.097 (1) (b) and (2) by jeopardizing the safety of the service dog user (either directly or by his or her own dog's behavior) without necessarily affecting the service dog itself. Is that okay?
2. Please review the penalties that correspond to the offenses created in the bill (noting, as you do, the state of mind of the actor that must be established for each offense) to ensure that they are consistent with Rep. Berceau's intent.

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2132/1dn
MGD:wlj:pg

March 15, 2005

Traci:

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Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

Northrop, Lori

From: Powell, Thomas
Sent: Tuesday, March 15, 2005 12:52 PM
To: LRB.Legal
Subject: Draft review: LRB 05-2132/1 Topic: Harassment of service dogs

It has been requested by <Powell, Thomas> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2132/1 Topic: Harassment of service dogs